

JAN 24 2024

A BILL FOR AN ACT

RELATING TO CIVIL RIGHTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the information age
2 is changing how providers of public accommodations communicate
3 with customers and the public, including the use of technology
4 such as websites and applications on smartphones and other
5 mobile devices to take reservations, view menus, place orders,
6 make sales, and provide product information.

7 The legislature further finds that ready access to and use
8 of information and communication technology is essential for all
9 citizens to have equal access to and full enjoyment of the
10 goods, services, facilities, privileges, advantages, and
11 accommodations of a place of public accommodation. However,
12 websites and applications used by public accommodation providers
13 are too often not accessible to and usable by persons with
14 disabilities, denying them full and equal access.

15 The legislature additionally finds that existing state and
16 federal laws that prohibit discrimination in public
17 accommodations based on disability should better assist



1 providers of public accommodations and persons with disabilities
2 by affirming and clarifying requirements for electronic access.

3 Accordingly, the purpose of this Act is to establish that
4 it is an unlawful discriminatory practice for public
5 accommodations to deny a person with a disability full and equal
6 enjoyment of information related to their services, facilities,
7 privileges, advantages, or accommodations using information and
8 communication technology intended for use by the general public
9 as applicants, participants, customers, clients, or visitors.

10 SECTION 2. Section 489-2, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending four new definitions to be appropriately
13 inserted and to read:

14 "Accessible" means the ability to receive, use, and
15 manipulate data and operate controls included in information and
16 communication technology in a manner equivalent to that of
17 individuals who do not have disabilities;

18 "Application" means software that is designed to run on a
19 device, including a smartphone, tablet, self-service kiosk,
20 wearable technology item, laptop or desktop computer, or another
21 device, and perform or help the user perform a specific task;



1 "Information and communication technology" means electronic
2 information, software, systems, and equipment used in the
3 creation, manipulation, storage, display, or transmission of
4 data, including internet and intranet systems, websites and
5 interfaces, software applications, operating systems, video and
6 multimedia, telecommunications products, kiosks, information
7 transaction machines, copiers, printers, smartphones, tablets,
8 and desktop and portable computers.

9 "Website" means any collection of related web pages,
10 images, videos, or other digital assets placed in one or more
11 computer server-based file archives so that the collection can
12 be accessed over the Internet or through a private computer
13 network."

14 2. By amending the definition of "place of public
15 accommodation" to read:

16 "Place of public accommodation" means a business,
17 accommodation, refreshment, entertainment, recreation, or
18 transportation facility of any kind whose goods, services,
19 facilities, privileges, advantages, or accommodations are
20 extended, offered, sold, or otherwise made available to the
21 general public as customers, clients, or visitors[-], whether



1 the presence of the business, accommodation, refreshment,
2 entertainment, recreation, or transportation facility in the
3 State is physical or digital. By way of example, but not of
4 limitation, place of public accommodation includes facilities of
5 the following types:

6 (1) A facility providing services relating to travel or
7 transportation;

8 (2) An inn, hotel, motel, or other establishment that
9 provides lodging to transient guests;

10 (3) A restaurant, cafeteria, lunchroom, lunch counter,
11 soda fountain, or other facility principally engaged
12 in selling food for consumption on the premises of a
13 retail establishment;

14 (4) A shopping center or any establishment that sells
15 goods or services at retail;

16 (5) An establishment licensed under chapter 281 doing
17 business under a class 4, 5, 7, 8, 9, 10, 11, or 12
18 license, as defined in section 281-31;

19 (6) A motion picture theater, other theater, auditorium,
20 convention center, lecture hall, concert hall, sports



- 1 arena, stadium, or other place of exhibition or
2 entertainment;
- 3 (7) A barber shop, beauty shop, bathhouse, swimming pool,
4 gymnasium, reducing or massage salon, or other
5 establishment conducted to serve the health,
6 appearance, or physical condition of persons;
- 7 (8) A park, a campsite, or trailer facility, or other
8 recreation facility;
- 9 (9) A comfort station; or a dispensary, clinic, hospital,
10 convalescent home, or other institution for the
11 infirm;
- 12 (10) A professional office of a health care provider, as
13 defined in section 323D-2, or other similar service
14 establishment;
- 15 (11) A mortuary or undertaking establishment; and
- 16 (12) An establishment that is physically located within the
17 premises of an establishment otherwise covered by this
18 definition, or within the premises of which is
19 physically located a covered establishment, and which
20 holds itself out as serving patrons of the covered
21 establishment.



1 No place of public accommodation defined in this section
2 shall be requested to reconstruct any facility or part thereof
3 to comply with this chapter."

4 SECTION 3. Section 489-5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§489-5 Other discriminatory practices.** (a) It is a
7 discriminatory practice for two or more persons to conspire:

8 (1) To retaliate or discriminate against a person because
9 the person has opposed an unfair discriminatory
10 practice;

11 (2) To aid, abet, incite, or coerce a person to engage in
12 a discriminatory practice; or

13 (3) Wilfully, to obstruct, or prevent, a person from
14 complying with this chapter.

15 (b) It is a discriminatory practice to deny a person the
16 full and equal enjoyment of the goods, services, facilities,
17 privileges, advantages, and accommodations of a place of public
18 accommodations because of the known disability of an individual
19 with whom the person is known to have a relationship or
20 association.



1 (c) It is a discriminatory practice to deny a person with
2 a disability full and equal enjoyment of the goods, services,
3 facilities, privileges, advantages, or accommodations, or
4 information related to the goods, services, facilities,
5 privileges, advantages, or accommodations using information and
6 communication technology intended for use by the general public
7 as applicants, participants, customers, clients, or visitors.

8 Beginning July 1, 2025, a place of public accommodation
9 shall:

10 (1) Ensure that information and communication technology
11 used to communicate with applicants, participants,
12 customers, and other members of the public is
13 accessible for full and equal use by persons with
14 disabilities; and

15 (2) Ensure that communications and interactions through
16 information and communication technology with
17 applicants, participants, customers, and other members
18 of the public with disabilities are as effective as
19 communications and interactions with individuals
20 without disabilities.

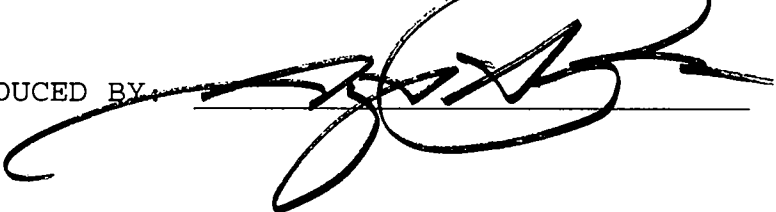


1 For purposes of this subsection, a website that meets or
2 exceeds the World Wide Web Consortium Web Content Accessibility
3 Guidelines 2.1 Level AA (as the guideline may be revised) shall
4 be deemed accessible. A public accommodation shall not be
5 deemed to be in violation of this subsection if compliance would
6 impose an undue burden or fundamentally alter the nature of the
7 information and communication technology."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

11

INTRODUCED BY: 

S.B. NO. 3311

Report Title:

Discrimination in Public Accommodations; Persons with Disabilities; Discriminatory Practices

Description:

Establishes that it is an unlawful discriminatory practice for public accommodations to deny a person with a disability full and equal enjoyment of information related to their services, facilities, privileges, advantages, or accommodations using information and communication technology intended for use by the general public as applicants, participants, customers, clients, or visitors. Establishes exceptions.

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